

*U.S. Cir. Ct.
Dist. of N. J.
American Graphophone Co. vs. National Phonograph Co.
Defendants Exhibit
Emerson Affidavit* *No 10.
In Equity* *H.D. Co. Exⁿ*

UNITED STATES CIRCUIT COURT,
DISTRICT OF NEW JERSEY.

AMERICAN GRAPHOPHONE COMPANY,

vs.

IN EQUITY NO.

UNITED STATES PHONOGRAPH COMPANY
et al.

AFFIDAVIT OF VICTOR H. EMERSON.

State of New York,
County of New York.

ss:

Victor H. Emerson, being duly sworn, deposes and says
as follows:

I am 29 years of age, and reside in Newark, N. J.
I have been the general manager of the United States Phono-
graph Company from the time of its organization, in the
spring of 1893, until the present time, and have been its
president since January last.

I am, and have been for the past two years, the gen-
eral manager of the New Jersey Phonograph Company, and have
been in its employ since 1889.

I have read the affidavit of George E. Tewksbury,
given in this case. The facts stated by Mr. Tewksbury are
true, and especially is it true that all the phonographs and
phonograph supplies purchased, used and sold by the United
States Phonograph Company have been purchased from the local
or sub-companies having licenses under the patents in suit,
and particularly from the Kansas and New Jersey Companies.

With regard to the statements made in the affidavit
of Mr. Easton, given for the complainant, relating to ne-

gotiations for a license from the American Graphophone Company, I wish to say that at the time of the occurrences to which Mr. Easton refers, the price charged for the blank record cylinders was so high that the officers of the United States Phonograph Company contemplated attempting the manufacture of such cylinders itself, provided that could be lawfully done. With that end in view, we opened negotiations with the American Graphophone Company, as stated in Mr. Easton's affidavit, but before an agreement was consummated, we were advised by our counsel that the patents owned by the Graphophone Company would not be a sufficient protection to us in that manufacture, and consequently we refused to make the agreement, and continued to do business as we had before done it, and as we have since done it, by purchasing such cylinders from the licensed companies of the North American Phonograph Company.

The commercial failure of the graphophone down to the time of its adopting the features of the phonograph, and particularly the failure of the Graphophone Company to produce a cylinder for receiving musical and other exhibition records which would be practically useful, as stated by Mr. Tewksbury in his affidavit, are facts well known to me. As further confirmation of this situation, I will say that it has come to my attention that the Graphophone Company has made efforts to secure information as to the composition and method of manufacture of the Edison Phonograph cylinders. In July, 1894, I was approached by Mr. R. F. Cromelin, an officer of the Columbia Phonograph Company, and an active associate with Mr. Easton in the exploitation of the graphophone, who, assuming that I knew the composition and method

of manufacture of the Edison Phonograph blanks, asked me to disclose the same, and suggested that if I should go to Washington, and give Mr. Easton the information, I would be paid liberally. This episode resulted in a correspondence between Mr. Easton and myself early in August, 1894, in which Mr. Easton urged me to give him the information, and I refused to have anything to say upon the subject.

Victor H. Emerson.

Subscribed and sworn to before me
this 28th day of November, 1894.

(L. S.) Eugene Conran,

Notary Public,

Kings & N. Y. Counties.